

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE**

AMERICAN GUARANTEE and LIABILITY  
INSURANCE COMPANY,

Plaintiff,

v.

NORFOLK SOUTHERN RAILWAY  
COMPANY, et al.,

Defendants.

No. 3:16-CV-00129

District Judge Harry S. Mattice, Jr.

Magistrate Judge  
C. Clifford Shirley, Jr.

**STIPULATION OF DISMISSAL WITHOUT PREJUDICE OF DEFENDANT THE  
CINCINNATI SPECIALTY UNDERWRITERS INSURANCE COMPANY  
PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 41(a)(1)(A)(ii)**

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), Plaintiff American Guarantee and Liability Insurance Company ("American Guarantee") and all of the other parties hereto stipulate to the dismissal without prejudice of Defendant The Cincinnati Specialty Underwriters Insurance Company ("CSU"). In support hereof, the parties state as follows:

1. American Guarantee filed this action on March 18, 2016, seeking a declaration of the rights of the parties under an insurance policy issued to East Coast Right of Way Maintenance, Inc. ("East Coast") in connection with claims asserted against Norfolk Southern Railway Company and Norfolk Southern Corporation (collectively, "Norfolk Southern") in the underlying lawsuit of *Hunter O. Crass et al. v. Norfolk Southern Railway Co. et al.* (case no. 15-cv-5) (Roane County, Tennessee)(the "Underlying Lawsuit").

2. There are no motions for summary judgment filed in this case.

3. All of the parties which have filed an appearance hereby stipulate to the

dismissal of CSU without prejudice from this action pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

4. American Guarantee intends to proceed with this action as to the remaining defendants.

WHEREFORE, the parties hereby stipulate to the dismissal without prejudice of defendant CSU, only, from this case pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

Respectfully submitted this 7 day of June, 2016.

**Howard, Tate, Sowell, Wilson, Leathers  
& Johnson, PLLC**

s/William H. Tate

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### **CERTIFICATE OF SERVICE**

I hereby certify that on June 7, 2016 I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to the following as shown below:

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<p><b><u>The following will be served via E-mail only:</u></b></p> <p>Lindsay C. Donald, Esq. Hope Nightingale, Esq. Litchfield Cavo LLP 303 W Madison, Suite 300 Chicago, IL 60606 Email: <a href="mailto:Donald@litchfieldcavo.com">Donald@litchfieldcavo.com</a> Email: <a href="mailto:Nightingale@litchfieldcavo.com">Nightingale@litchfieldcavo.com</a></p>	

s/William H. Tate